



# San Diego City Attorney **MICHAEL J. AGUIRRE**

## **NEWS RELEASE**

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### **KPMG USES PLAN ADVOCATED BY AGUIRRE TO SETTLE WITH U.S. JUSTICE DEPARTMENT Accounting Giant Pays \$456 Million Fine; Individual Executives Not Included in Settlement**

**San Diego, CA:** Following the model urged by City Attorney Michael Aguirre for San Diego's response to a Securities and Exchange Commission (SEC) investigation, KPMG has agreed to pay a fine as a way of avoiding a federal criminal indictment for the accounting firm's scheme to market illegal tax shelters. KPMG is the accounting firm that the City of San Diego hired to complete its FY 2003 audit.

In order to bring the U.S. Department of Justice probe of the corporation to an end, KPMG admitted its wrongdoing, will pay a \$456 million fine, and will accept an outside monitor of its operations. The agreement effectively shields the corporate entity from further liability but left individual executives vulnerable to prosecution. Today an indictment was unsealed in a U.S. District Court that charged nine of these executives with conspiracy in the creation of fraudulent tax shelters. According to a U. S. Senate subcommittee report, the tax shelter scheme, which operated between 1996 and 2002, netted KPMG \$124 million while depriving the U.S. treasury of at least \$1.4 billion in taxes.

"The path taken by KPMG is precisely the one that I have proposed that the City of San Diego take in order to extract itself from the ongoing SEC investigation," said City Attorney Aguirre. "We need to detach the City as an entity from the individuals suspected of wrongdoing and pursue a separate resolution. Individual culpability should be handled apart from this process since those parties have their own defense counsel paid for by taxpayers. It's time to put the City's interest first," he added.

In a 15-point plan to resolve the City's legal, accounting, and financial crisis, City Attorney Aguirre advocated the pursuit of a consent decree on behalf of the City and the SEC and the City Council in its governmental capacity and the SEC. Individuals, including members of the City Council, subject to SEC investigation would resolve any personal issues with the SEC separately.

Aguirre has also urged the City to retain the accounting firm Macias Gini & Co. to work with KPMG on completing the audit of the City's 2003 and any restatement of the City's 2002 financial statements. California-based Macias Gini & Co. has already been hired to audit the City's 2004 and 2005 financial statements.

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